
Public Utilities Commission of the State of California

Results of Public Agenda 3144

Meeting Held on Thursday, December 16, 2004 9:30 a.m.

San Francisco, California

Commissioners

Michael R. Peevey, President

Geoffrey F. Brown

Susan P. Kennedy

Loretta M. Lynch

Carl W. Wood

Website: <http://www.cpuc.ca.gov>

Scheduled Commission Meetings

505 Van Ness Avenue, San Francisco

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| <i>Ratesetting Deliberative Meeting*</i> <i>Room 5305</i> <i>(1:30 p.m.)</i> <i>Closed to the Public</i> | <i>Commission Meeting</i> <i>Auditorium</i> <i>(10 a.m.)</i> <i>Open to the Public</i> |
| Monday, January 24, 2005 (San Francisco) | Thursday, January 27, 2005 (San Francisco) |
| Monday, February 07, 2005 (San Francisco) | Thursday, February 10, 2005 (San Francisco) |
| Tuesday, February 22, 2005 (San Francisco) | Thursday, February 24, 2005 (San Francisco) |
| Monday, March 14, 2005 (San Francisco) | Thursday, March 17, 2005 (San Francisco) |
| | |

**Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

For further information contact the Public Advisor
(415) 703-2074 E-mail: public.advisor@cpuc.ca.gov



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PUBLIC COMMENT

The following items are not subject to public comment:

- All items on the closed session agenda; these are HEX and EX items.
-

Public Comment:

Re 41: Ken Smokoska, Sierra Club of California, San Diego, CA

Re 55: Assemblymember Mike Gordon, 53rd Assembly District

Re 58:

Jessica Nagtalon, Felton, CA

Juliette Beck, Public Citizen, Oakland, CA

Re 60:

Armando Tiscareno, Stacy and Witbeck, Inc., Alameda, CA

Douglas F. Perry, Organized Labor Newspaper, Oakland, CA

Norma Lopez, LA County Federation of Labor

Ron Colon, Irish Construction, Pinole, CA

Terence J. Street, Roebbelen Contracting, El Dorado Hills, CA

Consent Agenda

Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.

Orders and Resolutions

1

A99-12-025 - Valencia Water Company.

[3736]

For approval of its updated Water Management Program as ordered in Commission Resolution W-4154 dated August 5, 1999. This decision awards The Angeles Chapter of Sierra Club \$4,074.18 for its contribution to D01-11-048 and D03-10-063. This proceeding is closed.

(Comr Brown - ALJ Patrick)

Agenda 3137, Item 23 8/19/2004 (Staff);

Agenda 3138, Item 7 9/2/2004 (Staff);

Agenda 3139, Item 3 9/23/2004 (Staff);

Agenda 3141, Item 1 10/28/2004 (Staff);

Agenda 3142, Item 3 11/19/2004 (Staff);

Agenda 3143, Item 1 12/2/2004 (Staff)

Outcome Held (1/13/05, Consent Agenda.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

2

[3999]

Res ALJ 176-3144

Ratification of preliminary determination of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

3

[3926]

C03-09-004 - California Building Industry Association (CBIA) vs. San Diego Gas & Electric Company (SDG&E).

This decision denies the complaint of CBIA that SDG&E be required to seek prior Commission approval before updating cost factors and underlying assumptions used by SDG&E to prepare project-specific line extension estimates. This proceeding is closed.

(Comr Kennedy - ALJ Patrick)

Agenda 3141, Item 10 10/28/2004 (Kennedy);

Agenda 3142, Item 7 11/19/2004 (Kennedy)

Outcome Held (1/13/05, Consent Agenda. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

4

[4005]

Res ST-71 - Los Angeles County Metropolitan Transportation Authority (LACMTA).

This Resolution grants LACMTA authority to be exempt from the class B commercial driver's license with a passenger transportation endorsement requirement of General Order 143-B, Section 12.02, specifically for Division Managers and Assistant Division Managers.

Agenda 3142, Item 19 11/19/2004 (Wood);

Agenda 3143, Item 5 12/2/2004 (Wood)

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

5

[4018]

C00-01-017 - Robert Hambley, for himself and, on behalf of the residents of Los Robles Mobilehome Park vs. Hillsboro Properties, a California Limited Partnership, and the City of Novato.

This decision denies the request of Golden State Mobilehome Owners League, Inc. (GSMOL) for intervenor compensation for its contribution to C00-01-017. GSMOL represented the complainant, Robert Hambly, et al. and also intervened in its own right. GSMOL's cost are not compensable under the intervenor compensation program. This proceeding is closed.

(Comr Brown - ALJ O'Donnell)

Agenda 3143, Item 8 12/2/2004 (Lynch)

Outcome Held (1/13/05, Consent Agenda.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

6

[4030]

Res W-4510 - Lewiston Valley Water Company, Inc.

This resolution authorizes an increase in general rates for water operations producing an increase in annual revenues of \$6,541 or 25.8% and an increase in general rates for sewer operations producing an increase in annual revenues of \$9,914 or 101.7% for test year 2004.

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

7

[4049]

C04-07-029 - Ronald Sweptson vs. California-American Water Company.

This case is dismissed for failure to state a cause of action and for lack of jurisdiction. This proceeding is closed.

(Comr Peevey - ALJ Walker)

Outcome Signed

[D04-12-032](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

8 (Rev.)
[4052]

C03-07-031 - Pacific Gas and Electric Company vs. Calpine Corporation, CPN Pipeline Company, Calpine Energy Services, L.P., Calpine Natural Gas Company; Lodi Gas Storage, LLC.

This decision awards The Utility Reform Network (TURN) \$16,684.51 in compensation for its contribution to D04-07-006. This proceeding is closed.

(Comr Brown - ALJ Thomas)

Agenda 3143, Item 13 12/2/2004 (Staff)

12/09/2004 - This revision was not shown on the Agenda mailed to the public.

Outcome Signed

[D04-12-033](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

9
[4054]

C04-07-045 - James Nyhan, Terri Tavita, and Joelle Del Carlo vs. MCI WorldCom Communications, Inc.

This decision dismisses the complaint for failure to show a violation of law or order upon which the Commission can grant relief. This proceeding is closed.

(Comr Lynch - ALJ Vieth)

Outcome Signed

[D04-12-034](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

10
[4055]

Res T-16898

This resolution adopts a surcharge rate of 2.43% for the California High Cost Fund-B Administrative Committee fund effective January 1, 2005 and thereafter, until further revised by the Commission.

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

11 (Rev.)
[4057]

R01-08-028 - Order Instituting Rulemaking to examine the Commission's future energy efficiency policies, administration and programs.

This decision awards compensation for contributions to several Commission decisions, as follows: 1) The Utility Reform Network is awarded \$81,726.48 for its contributions to D03-08-067, D03-12-060, and D04-02-059. 2) Women's Energy Matters is awarded \$84,638.06 for its contributions to D03-01-038, D03-04-055, D03-07-034, D03-08-067, and D03-12-060, and several rulings issued in this proceeding.

(Comr Kennedy - ALJ Malcolm)

12/14/2004 - This revision was not shown on the Agenda mailed to the public.

Outcome Held (1/13/05, Consent Agenda.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

12
[4063]

A01-10-011 - Pacific Gas and Electric Company (PG&E).

This decision addresses the petitions for modification of D03-12-061 that were filed by PG&E on February 24, 2004 and July 2, 2004, respectively.

(Comr Lynch - ALJ Wong)

Outcome Signed

[D04-12-035](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

13
[4065]

A04-09-017 - Southern California Edison Company (SCE).

This decision grants SCE conditional authority under Section 851 to lease utility property to Anaheim RV Storage, LLC (Anaheim RV). The property is located on SCE's 220 kilovolt Barre-Del Amo transmission right-of-way in the City of Anaheim. Anaheim RV intends to construct and operate a recreational vehicle storage facility on the site. This proceeding is closed.

(Comr Brown - ALJ Kenney)

Outcome Signed

[D04-12-036](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

14

[4082]

Res M-4813

The attached resolution recommends that the Commission retain fees levels set for the 2003-04 fiscal year for heat, water and sewer system corporations, and telecommunications corporations. It recommends fees for electric and gas corporations be set at zero effective January 1, 2005 to reduce Public Utilities Commission Utilities Reimbursement Account reserves to an appropriate level.

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

15

[4083]

Res M-4814

The fee levels set by this resolution for passenger vehicle operators, vessel operators, commercial air operators and pipeline corporations are unchanged from the fee levels set for fiscal year 2003-04. The fee level set for the railroad corporations reflect a budget of \$3,473,000 for railroad safety, less a rollover of \$30,000 in fees collected and unspent from the 2003-04 fiscal year.

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

16

[4089]

I04-07-004 - In the Matter of the Order Instituting Investigation on the Commission's own motion into the operations and practices of Andy's Ultimate Limousines, Inc., dba as The Ultimate Limousine, and A.L.S., dba as Andy's Limousine Service Transportation and its President Andrew Wagner, and Vice President Dannerter Wagner, to determine whether they have violated the laws, rules and regulations, etc.

This decision adopts a settlement between respondents Andy's Ultimate Limousines, and Andy's Limousine Service Transportation, and its President Andrew Wagner (Wagner) (collectively respondents) and the Commission's Consumer Protection and Safety Division. Under this settlement, respondents will pay a \$20,000 fine in installments, and are subject to a one year probation period. The settlement also requires all of respondents' future operations to comply with the law. This proceeding is closed.

(Comr Peevey - ALJ Econome)

Outcome Signed

[D04-12-037](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

17

[4091]

A04-08-019 - Southern California Edison Company (SCE).

This decision grants the application of SCE and the City of Cerritos by authorizing their joint proposal to implement Assembly Bill 80 pursuant to their agreement. The agreement provides the conditions under which the City may act as a community aggregator on behalf of retail end-use customers within its jurisdiction following construction of the Magnolia Power Project in the City of Burbank. This proceeding is closed.

(Comr Brown - ALJ Malcolm)

Outcome Held (1/13/05, Consent Agenda. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

18

[4099]

Res SU-55 - Pacific Gas and Electric Company (PG&E).

This resolution authorizes PG&E a deviation from Department of Transportation (DOT) regulations for its gas transmission pipeline Line 401. This resolution grants PG&E's request for class location waiver and would require PG&E to perform alternative risk control activities in lieu of pressure reduction or pipeline segment replacement of Line 401 based on DOT regulations.

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

19

[4101]

(ECP) C04-08-003 - Eric King vs. AT&T Communications of California, Inc. (AT&T), Sprint Communications Company L.P. (Sprint), Z-Tel Communications, Inc., and Pacific Bell Telephone Company, doing business as SBC California.

Eric King disputes AT&T charges of \$37.72 billed to him after his long distance service was switched from Sprint to AT&T without his permission. The complaint is denied because the charges have been removed and there is no further relief the Commission can grant. This proceeding is closed.

(Comr Brown - ALJ Patrick)

Outcome Signed

[D04-12-038](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

20

[4104]

I02-04-026 - Order Instituting Investigation into the ratemaking implications for Pacific Gas and Electric Company (PG&E) pursuant to the Commission's alternative plan for reorganization under Chapter 11 of the Bankruptcy Code for PG&E, in the United States Bankruptcy Court, Northern District of California, San Francisco Division, in re PG&E, Case No. 01-30923 DM.

This decision awards Aglet Consumer Alliance \$3,133.01 for its contribution to D04-02-062, adopting a Rate Design Settlement in the bankruptcy investigation of PG&E. This proceeding is closed.

(Comr Peevey - ALJ Econome)

Outcome Signed

[D04-12-039](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

21

[4106]

A04-10-002 - Pacific Pipeline System LLC (Pacific Pipeline).

This decision grants Pacific Pipeline a rate increase of \$2.033 million. This proceeding is closed.

(Comr Kennedy - ALJ Long)

Outcome Signed

[D04-12-040](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

22

[4109]

Res G-3371 - California Energy Commission (CEC).

CEC requests approval of its 2005 program plan and funding request for the Natural Gas Public Interest Research Program. The CEC's request is approved.

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

23

[4112]

A03-01-019 - Southern California Edison Company.

For authority to lower and adjust retail electric rates for all customer classes upon completion of full recovery of procurement related obligations account. This decision awards Visalia Senior Housing, Inc. \$9,150 in compensation for its substantial contribution to D04-08-045. This proceeding is closed. (Comr Brown - ALJ Barnett)

Outcome Signed[D04-12-041](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

24

[4115]

Res W-4514 - Penngrove Water Company (PWC).

This resolution authorizes PWC an offset rate increase of \$23,953 or 5.3% additional revenue. (Advice Letter 57, filed August 13, 2004)

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

25

[4116]

Res W-4511 - Beasore Meadows Water Company (BMWC).

This resolution authorizes BMWC a general rate increase producing additional annual revenue of \$6,548 or 78.09% in 2003.

Outcome Held (1/13/05, Consent Agenda.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

26

[4118]

Res W-4515 - San Jose Water Company (SJWC).

This resolution authorizes SJWC a true-up increase producing additional annual revenues of \$4,968,289 or 2.96% to recover the difference between revenues authorized by D03-12-007 and D04-08-054. (Advice Letter 351, filed November 8, 2004)

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

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- 27**
[4119] **Res W-4512 - Del Oro Water Company (DOWC), Country Estates District.**
This resolution authorizes DOWC, Country Estates District a general rate increase producing additional annual revenue of \$3,063 or 4.22% in 2004.
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 28**
[4120] **Res W-4516 - Tahoe Swiss Village Utilities, Inc. (TSVU).**
This resolution authorizes TSVU an offset rate increase of \$5,587 or 3.4% and a one-time surcharge producing additional revenue of \$1,042 for Department of Health Services fees. (Advice Letter 11, filed August 27, 2004)
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 29**
[4121] **Res W-4513 - Fruitridge Vista Water Company (FVWC).**
This resolution authorizes FVWC a surcharge to recover an increase in Department of Health Services costs producing an increase in annual revenue of \$18,944.66 or 1.31%. (Advice Letter 77, filed October 12, 2004)
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 30**
[4123] **A04-10-019 - Hany N. Gergis dba 24/7 Airport Service (Applicant).**
This decision authorizes Applicant to operate as a passenger stage corporation between points in the Counties of San Bernardino, Riverside, Orange, and Los Angeles (part), on the one hand, and Ontario International, John Wayne, and Long Beach Airports, on the other hand. This proceeding is closed. (Exam Clark)
Outcome Signed
[D04-12-042](#)
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
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- 31**
[4124] **A04-09-036 - Tran Hoa and General Airport Shuttle (Applicant).**
This decision authorizes Applicant to operate as an on-call passenger stage corporation between San Jose International Airport, on the one hand, and points in San Francisco, Alameda, Contra Costa, Santa Clara, and Marin Counties, and San Francisco International Airport, on the other hand; and to establish a zone of rate freedom. This proceeding is closed.
(Exam Clark)
Outcome Signed
[D04-12-043](#)
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 32**
[4125] **Res T-16905 - Citizens Telecommunications Company of California Incorporated (Citizens).**
This resolution authorizes Citizens to increase its annual revenues by \$64,083 effective January 1, 2005. This resolution is in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 856, filed October 1, 2004)
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 33**
[4126] **Res T-16904 - Verizon California Incorporated (Verizon).**
This resolution authorizes Verizon to decrease its annual revenues by \$19,000,000 effective January 1, 2005. This resolution is in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 10,966, filed October 1, 2004)
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 34**
[4127] **Res T-16906 - SureWest Telephone Company (SureWest).**
This resolution authorizes SureWest to make no change in its annual revenues effective January 1, 2005. This resolution is in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 1014, filed September 28, 2004)
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
-

35

[4128]

A04-07-034 - Southern California Edison Company (SCE).

This decision grants SCE's application for authorization pursuant to Pub. Util. Code Section 851 to lease available land on the Laguna Bell-Lighthipe transmission right of way to RHC Communities, LLC. RHC Communities will use the property as the site for a storage facility. This proceeding is closed.

(Comr Kennedy - ALJ Prestidge)

Outcome Signed

[D04-12-044](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

36

[4132]

Res W-4517 - California Water Service Company (Cal Water).

This resolution authorizes a 4-month extension of time, requested on behalf of customer Kim Kocher, to submit a building permit to retain her water service connection in Cal Water's Coast Springs water system. (Advice Letter 1685, filed October 8, 2004)

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

Regular Agenda

Energy Orders

37

[3929]

A03-10-022 - Southern California Edison Company (SCE).

This decision adopts a joint SCE and Office of Ratepayer Advocates (ORA) recommendation to reduce the Energy Resource Recovery Account by a net amount of \$3,574,000 to reconcile certain audit issues. In all other respects, the decision finds SCE's procurement related and other operations were reasonable for the record period September 1, 2001 through June 30, 2003. The decision also defines the scope and standard of review for least cost dispatch and orders SCE and ORA to implement a master data request process. This proceeding is closed.

(Comr Peevey - ALJ Fukutome)

Agenda 3141, Item 37 10/28/2004 (Peevey);

Agenda 3142, Item 35 11/19/2004 (Kennedy)

Outcome Held (1/13/05. For alternate.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

38

[3938]

A04-06-018 - Pacific Gas and Electric Company (PG&E).

This decision grants PG&E's application to modify existing experimental economic development rate, otherwise known as Schedule ED in regard to Amy's Kitchen's requirements.

(Comr Wood - ALJ Barnett)

Agenda 3141, Item 39 10/28/2004 (Brown);

Agenda 3143, Item 29 12/2/2004 (Wood)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

38a

[3974]

ALTERNATE TO ITEM 3938

This decision denies Pacific Gas and Electric Company's (PG&E's) motion for an interim decision granting rate discounts (as proposed more broadly in this application) to Amy's Kitchen, a customer that is considering relocating or expanding its food manufacturing facilities outside of California. It finds that approval of this motion would prejudice the merits of PG&E's proposed discount structure prior to considering many significant issues related to implementation of the new structure, and further finds that in terms of many issues bearing specifically on the merits of providing discounts to Amy's Kitchen, the record is deficient to support approval.

(Comr Wood)

Agenda 3141, Item 39a 10/28/2004 (Brown);

Agenda 3143, Item 29a 12/2/2004 (Wood)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

39

[3975]

R04-03-017 - Order Instituting Rulemaking regarding policies, procedures and incentives for distributed generation and distributed energy resources.

This decision adopts modifications to the Self Generation Incentive Program (SGIP), which provides incentives to businesses and individuals who invest in distributed generation. The Commission implements the provisions of Assembly Bill 1685, increases the annual SGIP budget to \$300 million through 2007, eliminates the maximum percentage payment limits, and reduces the incentive payment for Level 1 projects to \$3.00 per watt. The Commission retains the San Diego Regional Energy Office as a non-utility program administrator through 2007. The decision directs the SGIP program administrators to expand opportunities for public participation in three Working Group activities: developing a declining rebate schedule, an exit strategy, and a data release format.

(Comr Peevey - ALJ Malcolm)

Agenda 3142, Item 38 11/19/2004 (Staff);

Agenda 3143, Item 30 12/2/2004 (Staff)

Outcome Signed

[D04-12-045](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

40

[3978]

C04-08-011 - Eric Little vs. San Diego Gas & Electric Company.

This decision confirms the Assigned Commissioner and Administrative Law Judge's Ruling issuing Temporary Restraining Order, dated October 15, 2004.

(Comr Brown - ALJ Simon)

Agenda 3141, Item 40 10/28/2004 (Staff);

Agenda 3142, Item 39 11/19/2004 (Staff);

Agenda 3143, Item 31 12/2/2004 (Staff)

Outcome Held (1/13/05.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

41

[4008]

R03-10-003 - Order Instituting Rulemaking to implement portions of AB 117 concerning Community Choice Aggregation.

This order resolves outstanding issues in Phase 1 of this proceeding, which addresses costs that would be imposed on Community Choice Aggregators (CCA) in order to implement the provisions of Assembly Bill 117 and enable CCAs to procure power for their local residents and businesses.

(Comr Peevey - ALJ Malcolm)

Agenda 3143, Item 33 12/2/2004 (Staff)

Outcome Signed

[D04-12-046](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

42

[4066]

A03-08-004 - Pacific Gas and Electric Company (PG&E).

This decision addresses the competition transition charge (CTC) issues that were raised by the Merced Irrigation District and the Modesto Irrigation District in connection with PG&E's 2004 Energy Resources Recovery Account revenue requirement and the 2004 ongoing CTC revenue requirement.

(Comr Peevey - ALJ Wong)

Outcome Held (1/13/05. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

43

[4068]

A04-05-021 - Southern California Edison Company (SCE).

A04-05-023 - Related matters. This decision authorizes SCE a 11.40% return on equity for its test year 2005 and Pacific Gas and Electric Company a 11.22% return on equity for its true up year 2004 and test year 2005. This decision also addresses the debt equivalent issue related to purchase power agreements. These proceedings are closed.

(Comr Brown - ALJ Galvin)

Outcome Signed (Comr. Lynch reserves the right to file a dissent. Comr. Wood reserves the right to file a dissent.)

[D04-12-047](#)

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

43a

[4070]

ALTERNATE TO ITEM 4068

A04-05-023 - Related matters. This alternate provides for enhanced consideration of debt equivalence issues.

(Comr Brown)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

44

[4073]

R04-04-003 - Order Instituting Rulemaking to promote policy and program coordination and integration in electric utility resource planning.

This decision adopts, with modifications, Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company's Long-Term Procurement Plans (LTPP) and provides direction to the utilities on the procurement of the resources identified in the LTPPs.

(Comr Peevey - ALJ Brown)

Outcome Signed (Comr. Lynch will file a dissent. Comr. Wood will file a dissent.)

[D04-12-048](#)

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

45 (Rev.)
[4074]

R02-11-039 - Rulemaking to implement the provisions of Public Utilities Code §761.3 enacted by Chapter 19 of the 2001-02 Second Extraordinary Legislative Session.

This order involves Commission implementation and enforcement of Operation Standards adopted on October 27, 2004 by the California Electricity Generation Facilities Standards Committee. This is accomplished through modification to General Order 167. Within 90 days of the effective date, each covered Generation Asset Owner shall file with the Director of the Commission's Consumer Protection and Safety Division a verified Initial Certification of its Operation Plan. The proceeding remains open.

(Comr Wood - ALJ Mattson)

12/15/2004 - This revision was not shown on the Agenda mailed to the public.

Outcome Signed

[D04-12-049](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

46
[4076]

I02-11-040 - Order Instituting Investigation into the Gas Market Activities of Southern California Gas Company (SoCalGas), San Diego Gas and Electric, Southwest Gas, Pacific Gas and Electric, and Southern California Edison and their impact on the Gas Price Spikes experienced at the California border from March 2000 through May 2001.

This decision finds that SoCalGas took actions that constrained gas supplies and increased border gas prices during the 2000/2001 winter. SoCalGas must refund \$28.8 million. Hub Services and non-core gas sales are removed from the Gas Cost Incentive Mechanism and further changes will be considered in the subsequent phase.

(Comr Lynch - ALJ TerKeurst)

Outcome Defeated

Yes: (Lynch, Wood)

No: (Brown, Kennedy, Peevey)

Abstain: (none)

Absent: (none)

47
[4081]

A04-03-021 - Pacific Gas and Electric Company.

This decision approves the Gas Accord III Settlement Agreement and pro forma tariffs filed on August 24, 2004. This proceeding is closed.

(Comr Brown - ALJ Walwyn)

Outcome Signed

[D04-12-050](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

48

[4103]

A00-11-038 - Southern California Edison Company (SCE).

For authority to institute a rate stabilization plan with a rate increase and end of rate freeze tariffs. A00-11-056, A00-10-028 - Related matters. This decision awards The Utility Reform Network (TURN) \$1,043,871.80 in compensation for its further participation in the federal district court proceedings in which SCE and Pacific Gas and Electric Company challenged the Commission's jurisdiction to limit the utilities' recovery of increased wholesale procurement costs, and for its efforts in the judicial review of D02-06-070, which awarded TURN intervenor compensation for its earlier participation in those federal proceedings.

(Comr Brown - ALJ Allen)

Outcome Held (1/13/05. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

49

[4129]

A04-10-004 - Southern California Edison Company (SCE).

This decision grants SCE's application to enter into a two-year Capacity Tolling Agreement (Agreement) with Reliant Energy Etiwanda, Inc. (REE). The Agreement provides for dispatchable energy from REE's Generation Units Nos. 3 and 4 and will assist SCE in meeting its electrical capacity and regulatory requirements and facilitate SCE's ability to meet customer load in the day ahead, hour ahead, and ancillary services markets, while providing credit safeguards and favorable termination rights.

(Comr Brown - ALJ Halligan)

Outcome Signed

[D04-12-051](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

50

[4151]

A02-07-022 - San Diego Gas & Electric Company (SDG&E).

This decision addresses the petition to modify D04-07-026 filed by SDG&E. The decision addresses SDG&E's proposal to modify its construction plans for the Miguel Mission transmission line project to install a temporary 230 kilovolt line on existing poles, which would reduce congestion management costs as early as September 2005.

(Comr Lynch - ALJ Malcolm)

Outcome Signed

[D04-12-052](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

Energy Resolutions and Written Reports**51 Res E-3878 - San Diego Gas & Electric Company (SDG&E).**

[3955]

SDG&E seeks approval of its 2003 quarterly procurement transaction filings demonstrating that power procurement activities executed during the period January 1 through December 31, 2003 were in compliance with the guidelines set forth in its Short-Term Procurement Plan filed with the Commission on November 15, 2002. (Advice Letter (AL) 1493-E, filed May 1, 2003; AL 1513-E, filed July 22, 2003, AL 1536-E, filed October 30, 2003; AL 1560-E, filed January 30, 2004)

Agenda 3142, Item 46 11/19/2004 (Staff);

Agenda 3143, Item 38 12/2/2004 (Staff)

Outcome Approved (Comr. Lynch will file a concurrence.)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

52 Res E-3889 - Pacific Gas and Electric Company (PG&E).

[3956]

PG&E seeks approval of its 2003 quarterly short-term procurement transaction compliance filings demonstrating that power procurement activities during the record period January 1 through December 31, 2003 were in conformance with the guidelines set forth in its Commission-approved Short-Term Procurement Plan filed with the Commission on November 12, 2002. (Advice Letter (AL) 2377-E, filed May 1, 2003; AL 2402-E, filed July 15, 2003; AL 2434-E, filed October 30, 2003; AL 2469-E, filed January 30, 2003; and Supplemental AL 2469-E-A, filed March 16, 2004)

Agenda 3142, Item 47 11/19/2004 (Staff);

Agenda 3143, Item 39 12/2/2004 (Staff)

Outcome Approved (Comr. Lynch will file a concurrence.)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

53 Res E-3902 - Southern California Edison Company (Edison) and California Independent System Operator (CISO).

[4097]

Edison and CISO submit a Revised Local Area Reliability Procurement Proposal developed pursuant to D04-07-028. Approved with modifications. (Advice Letter 1832-E, filed October 22, 2004)

Agenda 3143, Item 40 12/2/2004 (Staff)

Outcome Approved (Comr. Lynch reserves the right to file a dissent.)

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

54

[4114]

Res E-3906 - Pacific Gas and Electric Company (PG&E).

PG&E submits electric tariff revisions to recover balances in balancing accounts, establishing the regulatory asset revenue requirement, and consolidate changes to electric rates effective January 1, 2005. Approved with modifications. (Advice Letter 2570-E, filed October 15, 2004)

Outcome Approved (Comr. Lynch will file a statement of abstention.)

Yes: (Brown, Kennedy, Peevey, Wood)

No: (none)

Abstain: (Lynch)

Absent: (none)

Telecommunication Orders**55**
[4017] **R95-04-043 - Order Instituting Rulemaking on the Commission's own motion into competition for local exchange service.**

I95-04-044 - Related matters. This decision adopts statewide rules governing how code and number-block holders are to determine their six-month inventory of numbering resources based upon historical utilization.

These rules are adopted to promote more efficient utilization of numbering resources.

(Comr Lynch - ALJ Pulsifer)

Agenda 3143, Item 43 12/2/2004 (Peevey)

Outcome Defeated

Yes: (Lynch, Wood)

No: (Brown, Kennedy, Peevey)

Abstain: (none)

Absent: (none)

56
[4039] **R93-04-003 - Rulemaking on the Commission's own motion to govern open access to bottleneck services and establish a framework for network architecture development of dominant carrier networks.**

I93-04-002 - Related matters. This decision grants a petition by Verizon California to modify the interim unbundled network element (UNE) rates adopted in D03-03-033 based on recent increases in UNE rates for Verizon New Jersey. The changes include a decrease in the shared and common cost markup from 22% to 10%.

(Comr Peevey - ALJ Duda)

Outcome Held (1/13/05. For alternate.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

57

[4040]

C02-11-011 - Telscape Communications, Inc. vs. Pacific Bell Telephone Company.

This complaint, filed by Telscape Communications, Inc. (Telscape), in which AT&T Communications of California, Inc. (AT&T) and WorldCom, Inc. (MCI) have intervened, alleges that several policies and practices of defendant Pacific Bell Telephone Company (SBC-CA) with respect to the provision of local exchange telephone service (local voice service) are anticompetitive and discriminatory. This decision finds that SBC-CA's refusal to process orders for changing a customer's local voice service to that of a competitive local exchange carrier (CLEC) if the customer also subscribes to SBC Yahoo! DSL (SBC-CA's retail digital subscriber line (DSL) service) and, in some circumstances, other retail DSL service, violates Pub. Util. Code §§ 451 and 453(a). The decision further finds that the partial settlement entered into by AT&T, MCI, and SBC-CA to resolve allegations that SBC-CA has abused the winback process and encouraged incorrect accusations of slamming is reasonable in light of the whole record, consistent with law, and in the public interest. The decision therefore approves it. The decision further requires SBC-CA to extend its third-party verification process to include slamming allegations for residential local voice service. The decision concludes that Telscape has not demonstrated that its broad objections to the functioning of SBC-CA's operational support systems are well-founded, but the decision orders SBC-CA to remedy deficiencies in its treatment of certain non-recurring service order charges, in its handling of billing disputes with CLECs, and in its implementation of its Performance Incentives Plan. This proceeding is closed.

(Comr Brown - ALJ Simon)

Agenda 3142, Item 54 11/19/2004 (Peevey)

Outcome Signed

D04-12-053

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

83 (Rev.)

[4113]

R00-02-004 - Order Instituting Rulemaking on the Commission's own motion to establish consumer rights and consumer protection rules applicable to all telecommunications utilities.

This decision grants a total of \$826,901.85 in intervenor compensation to six intervenors for their contributions to Decision 04-05-057: Utility Consumers' Action Network, \$222,342.32; The Utility Reform Network, \$231,079.42; Wireless Consumers Alliance, \$23,258.50; California Small Business Roundtable, \$15,961.98; Latino Issues Forum, \$162,803.79; and National Consumer Law Center, Inc., \$171,455.84.

(Comr Wood - ALJ McVicar)

12/13/2004 - This item appeared as (62) under Regular Agenda/Other Utility Orders section on the agenda distributed to the public.

Outcome Signed

D04-12-054

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

Water/Sewer Orders**58**

[4069]

A04-03-023 - California American Water Company (Cal-Am).

A03-04-024 - Related matters. This decision approves stipulations between Cal-Am and the Office of Ratepayer Advocates (ORA), and Cal-Am and the City of Thousand Oaks, that together resolve all the issues in this case. Under the stipulation with ORA, rates for Cal-Am's Village District will decrease \$1.9 million, or 9.6%, in 2005, followed by very small increases in 2006 and 2007. For Cal-Am's Coronado District, rates will increase by about \$133,000, or 1.07%, in 2005, followed by even smaller increases in 2006 and 2007. The provisions in the stipulation between Cal-Am and ORA adopting ORA's low-income assistance proposal are rejected. This proceeding is closed.

(Comr Peevey - ALJ McKenzie)

Outcome Signed (Comr. Lynch will file a dissent.)

D04-12-055

Yes: (Brown, Kennedy, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (none)

Other Utility Orders**59** **R98-07-038 - Rulemaking for purposes of revising General Order 96-A regarding informal**
[3824] **filings at the Commission.**

This interim decision adopts rules revisions that will eventually be codified in General Order 96-B and that concern advice letter filing, service, and suspension.

(Comr Kennedy - ALJ Kotz)

Agenda 3139, Item 7 9/23/2004 (Staff);

Agenda 3140, Item 4 10/7/2004 (Staff);

Agenda 3141, Item 3 10/28/2004 (Kennedy);

Agenda 3142, Item 4 11/19/2004 (Wood);

Agenda 3143, Item 3 12/2/2004 (Wood)

Outcome Held (1/13/05. Further deliberation.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

59a **ALTERNATE TO ITEM 3824**

[4134] This alternate decision adopts rule revisions that will eventually be codified in General Order 96-B and that concern advice letter filing, service, and suspension. The difference from the proposed decision relates to which information carriers must provide when filing advice letters for new services.

Outcome Held (1/13/05. Further deliberation.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

60 **R03-09-006 - Order Instituting Rulemaking on the Commission's own motion for the purpose**
[4077] **of considering policies and rules governing utility construction contracting processes.**

This decision requires respondent utilities to pay prevailing wages for all construction work. It states a preference for the utilities to employ "project labor agreements" (PLAs) for construction contracts exceeding \$1 million and prohibits their use of "reverse auctions" for bidding procedures on any construction contracts. This proceeding will remain open to consider further the issue of PLAs.

(Comr Lynch - ALJ Malcolm)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

60a

[4135]

ALTERNATE TO ITEM 4077

This order adopts certain policies and practices for utility construction contracting procedures. Specifically, this order prohibits the use of “reverse auctions” in utility construction contract bidding procedures, a practice using the internet in which bidders compete for contracts by lowering their bids until the lowest bid is accepted. The order also requires respondent utilities to ensure the payment of prevailing wages by their construction contractors in all construction. We do not at this time address the use of, “Project Labor Agreements” (PLAs) by the jurisdictional utilities.

Outcome Signed ((Voted 4-1 to remove Items 60/60a from the hold list; Comr. Brown dissented.)

)

D04-12-056

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (Brown)

Abstain: (none)

Absent: (none)

61

[4102]

R04-01-005 - Rulemaking for the purpose of amending the Rules of Practice and Procedure to include the use of electronic mail to serve documents in formal proceedings before the Commission.

This decision adopts revisions to the Rules of Practice and Procedure (Title 20, Division 1, Chapter 1 of the California Code of Regulations) to allow, but not require, the routine use of electronic mail (e-mail) and posting on sites on the world wide web to serve documents in Commission formal proceedings. This proceeding is closed.

(Comr Peevey - ALJ Simon)

Outcome Signed

D04-12-057

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

Legal Division Matters

63

[4072]

Res L-315

This resolution approves a one-time deviation from the process established by Commission D88-12-083 and D04-05-055, pursuant to which membership vacancies on the Diablo Canyon Independent Safety Committee are filed.

Outcome Approved

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

Closed Session

This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the

Non-Federal

65

[3601]

C98-04-004 - Conference with Legal Counsel - Application for Rehearing

C98-06-003; C98-06-027; C98-06-049; I90-02-047 - Related matters. Disposition of Applications for Rehearing of D03-11-021 filed by The Latino Issues Forum (LIF), The Utility Reform Network, and SBC California. On November 13, 2003, the Commission issued D03-11-021, awarding intervenor compensation to The Greenlining Institute and LIF for its contribution to D01-09-058.

Agenda 3136, Item 97 7/8/2004 (Staff);

Agenda 3137, Item 97 8/19/2004 (Staff);

Agenda 3138, Item 48 9/2/2004 (Staff);

Agenda 3139, Item 53 9/23/2004 (Staff);

Agenda 3141, Item 53 10/28/2004 (Staff);

Agenda 3142, Item 60 11/19/2004 (Staff);

Agenda 3143, Item 48 12/2/2004 (Staff)

Outcome Held (1/13/05.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

66

[3895]

R03-09-006 - Conference with Legal Counsel – Application for Rehearing

Disposition of the application for rehearing of D04-04-038 filed by AT&T Wireless Services of California, LLC, Pacific Bell Wireless, LLC dba Cingular Wireless, Nextell of California, Inc, Sprint Spectrum L.P. dba Sprint, Omnipoint Communications, Inc. dba T-Mobile, and Verizon Wireless (collectively 'Wireless Carriers'). D04-04-038 resolved petitions to modify R03-09-006 and motions that sought to change the named respondents to this proceeding. D04-04-038 also granted motions for confidentiality filed by several utilities.

Agenda 3139, Item 59 9/23/2004 (Staff);

Agenda 3140, Item 39 10/7/2004 (Peevey);

Agenda 3141, Item 55 10/28/2004 (Staff);

Agenda 3142, Item 62 11/19/2004 (Lynch);

Agenda 3143, Item 49 12/2/2004 (Wood)

Outcome Held (1/13/05.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

67

[3966]

C03-05-023 - Conference with Legal Counsel – Application for Rehearing

Disposes of the application for rehearing of D04-05-006 filed by Raw Bandwidth Communications, Inc. D04-05-006 determined that SBC California and SBC Advanced Solutions, Inc. did not unreasonably discriminate or violate applicable law by connecting SBC Information Services (SBCIS) customers who dial 611 for digital subscriber line repair services to SBCIS, while telling customers of unaffiliated internet service providers (ISP) to hang up and call their ISP.

Agenda 3141, Item 57 10/28/2004 (Lynch);

Agenda 3142, Item 64 11/19/2004 (Staff);

Agenda 3143, Item 51 12/2/2004 (Staff)

Outcome Held (1/13/05.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

68

[3979]

A02-11-044 - Conference with Legal Counsel – Application for Rehearing

Disposition of Applications for Rehearing of D04-07-034 filed by the Office of Ratepayer Advocates, City of Fontana and the Fontana Unified School District. D04-07-034 authorizes a rate increase for the San Gabriel Valley Water Company (San Gabriel), Fontana Water Company Division. Among other things, the decision removes \$2.6 million from the ratebase, finding that is the amount of money the County of San Bernardino reimbursed San Gabriel for its water treatment facility, Plant F-10. The decision also finds that the Fontana Division is experiencing growth that is expected to continue and that it was barely able to meet its 2003 summer peak-day demand following four years of drought and closure of various contaminated wells. Further, the decision finds that it is not reasonable to defer addition for new plant in the Fontana Division until outside funding for contamination cleanup becomes available and finds that the utility has justified its proposed construction program including plans for needed plant additions that would increase its rate base at a rate of 10% per year. The decision advises that the utility to open a water quality memorandum account for any reimbursements from polluters or proceeds ultimately received. The decision permits the utility to purchase land for its new office building but requires it to defer building the new office building at this time. Because the utility has not, in the past, hired new personnel when funded to do so, the decision requires it to file an advice letter for inclusion of the costs of each new position authorized by it. In addition, the decision finds that that the utility's executive salaries are not unreasonable.

Agenda 3143, Item 52 12/2/2004 (Staff)

Outcome Held (1/13/05.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

69

[3833]

R01-09-001 - Conference with Legal Counsel - Application for Rehearing

I01-09-002 - Related matters. Disposition of Applications for Rehearing of D04-02-063 filed by the Office of Ratepayer Advocates and The Utility Reform Network. In D04-02-063, the Commission allowed SBC Pacific Bell Telephone Company to write off approximately \$400 million of a Post Retirement Benefit Other Than Pension regulatory assets above the line in 1998.

Agenda 3138, Item 55 9/2/2004 (Staff);

Agenda 3139, Item 57 9/23/2004 (Staff);

Agenda 3140, Item 37 10/7/2004 (Staff);

Agenda 3142, Item 61 11/19/2004 (Staff)

Outcome Held (1/13/05.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

70

[4028]

A04-08-009 - Conference with Legal Counsel – Application for Rehearing

Disposition of application for rehearing of Resolution E-3831, filed by Pacific Gas and Electric Company, Southern California Edison Company, Energy Producers and Users Coalition, Kimberly Clark Corporation, and Goodrich Aerostructures Group. In Resolution E-3831, the Commission implemented the cost responsibility surcharge for customer generation departing load, as mandated by D03-04-030, as modified by D03-04-041.

Agenda 3143, Item 53 12/2/2004 (Staff)

Outcome Held (1/13/05.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

71

[4111]

I02-06-003 - Conference With Legal Counsel -- Application for Rehearing

Disposition of Application for Rehearing of D04-09-062 filed by Cingular Wireless (Cingular). In D04-09-062, the Commission determined that Cingular violated Public Utilities Code Sections 451, 702 and 2896, as well as D95-04-028, and ordered Cingular to pay customer reparations and a penalty of \$12,140,000. These violations resulted from Cingular's practice of charging customers Early Termination Fees without permitting a grace period to determine whether Cingular's service met the customer's needs, during a period of time when Cingular conceded it experienced significant network capacity problems, and yet failed to disclose these capacity problems to potential customers.

Outcome Signed (Comr. Kennedy reserves the right to file a dissent.)

D04-12-058

Yes: (Brown, Lynch, Wood)

No: (Kennedy, Peevey)

Abstain: (none)

Absent: (none)

73

[4122]

R02-01-011 - Conference with Legal Counsel - Application for Rehearing

Disposition of applications for rehearing of D04-11-014 filed by Pacific Gas and Electric Company, City of Industry & City of Rancho Cucamonga (jointly), Modesto Irrigation District, and Merced Irrigation District. D04-11-014 addressed the limited rehearing ordered by D03-08-076 and related matters.

Outcome Signed as Modified

D04-12-059

Yes: (Brown, Kennedy, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (none)

74

[4130]

A02-07-022 - Conference with Legal Counsel - Application for Rehearing

Order disposing of applications for rehearing of D04-07-026, in which the Commission certified the Final Environmental Impact Report and granted a CPCN for SDG&E's Miguel Mission 2340kV transmission project. Applications for rehearing were filed by the City of Santee, Santee Citizens for Safe Power, San Diegans for Fair Power, and the Eucalyptus Hills Landowners Association.

Outcome Held (1/13/05.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

75

[4131]

A03-03-043 - Conference with Legal Counsel – Application for Rehearing

Disposition of the request for leave to file an application for rehearing and application for rehearing of D04-07-027 filed by NOPE. D04-07-027 granted Southern California Edison a permit to construct a new substation in the City of Lake Forest and certain new transmission facilities through the City of Mission Viejo, as described in the Final Mitigated Negative Declaration (FMND). D04-07-027 also certified the FMND.

Outcome Held (1/13/05.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)